IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 12TH MARCH 2007 / 21ST PHALGUNA 1928

WP(C).No. 6219 of 2006(M)

PETITIONERS:

1.KONKULANJI KSHEEROLPADAKA CO-OPERATIVE SOCIETY LTD.NO.PT.43(D)APCOS, MEZHUVELI P.O. PATHANAMTHITTA, REPRESENTED BY ITS PRESIDENT, K.K.JAIN.

2.K.K.JAIN, JAIN NIVAS, MEZHUVELI P.O. PATHANAMTHITTA.

BY ADV. SRI.P.B.SURESH KUMAR

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR OF DAIRY DEVELOPMENT, DAIRY DEVELOPMENT DEPARTMENT, THIRUVANANTHAPURAM.

3. THE TRIVANDRUM REGIONAL CO-OPERATIVE MILK PRODUCERS UNION LTD. NO.T.177(D) KSHEERA BHAVAN, PATTOM, THIRUVANANTHAPURAM, REPRESENTED BY ITS MANAGING DIRECTOR.

4. NANNIYODU.B.RAJAN, CHAIRMAN, TRIVANDRUM REGIONAL CO-OPERATIVE MILK PRODUCERS UNION LTD., NO.T.177(D) KSHEERA BHAVAN,PATTOM, THIRUVANANTHAPURAM.

BY ADV. SRI.GEORGE POONTHOTTAM for R4
SRI.K.ANAND for R3
BY SR.GOVERNMENT PLEADER SRI. P.N. SANTHOSH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.6219/2006 M

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE ORDER NO.H3/9694/99 PASSED BY THE SECOND RESPONDENT UNDER SECTION 68(3) OF THE ACT, DTD. 30/06/2000.**

EXT.P2: **COPY OF THE JUDGMENT OF THIS HONOURABLE COURT IN O.P.NO.12709/2000 DTD. 25/01/2002.**

EXT.P3: **COPY of the ORDER NO.G2/11096/03 PASSED BY THE SECOND RESPONDENT UNDER SECTION 68 (2) OF THE ACT, DTD. 19/05/2005.**

EXT.P4: **COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONERS BEFORE THE FIRST RESPONDENT DTD. 15/02/2006.**

4TH RESPONDENT'S EXHIBITS:

EXT.R4(A): **COPY OF THE INTERIM ORDER IN CMP.NO.20834/2000 IN O.P.NO.12709/2000 DTD. 28/04/2000.**

EXT.R4(B): **COPY OF THE RECEIPT DATED 3/08/2005 FOR RS.36,580/-ISSUED BY THE THIRUVANANTHAPURAM REGIONAL CO-OPERATIVE MILK PRODUCERS UNION LTD.**

/TRUE COPY/

KSS

S.SIRI JAGAN .J

W.P.(C) No. 6219 of 2006

Dated this the 12th day of March 2007

JUDGMENT

The petitioners' complaint is that the 4th respondent who is the chairman of the 3rd respondent society is disqualified from continuing as a member of the 3rd respondent since Ext.P1 order has been passed imposing surcharge on the 4th respondent which is a disqualification for continuing as a member of the society. In this connection, the petitioners submits that, he has filed Ext.P4 representation before the 2nd respondent and seeks a direction to the 2nd respondent to dispose of the same. The counsel for the 4th respondent would submit that Ext.P1 cannot be regarded as an order at all, since by virtue of the interim orders in O.P No.12709/2000 this court had interdicted the 2nd respondent from issuing the said order and ultimately by Ext.P2 judgment in that O.P, the 2nd respondent has been directed to re-consider the matter after affording an opportunity of being heard to the 4th respondent and therefore Ext.P1 is non-est. He would further submit that by Ext.P3 order, pursuant to the direction in Ext.P2 judgment, the 4th respondent has been absolved from any liability and the society has been directed to pay the amount which was earlier directed to be paid by the 4th respondent, or by the Managing Director. He also

submits that the amount has already been remitted by the society and therefore no proceedings can be initiated against the 4th respondent on the basis of the assumption that surcharge has been imposed on the 4th respondent. These are all matters which the petitioner and 4th respondent can urge before the 2nd respondent while considering Ext.P4 representation submitted by the petitioners in this regard. In the above circumstances I dispose of the writ petition directing the 2nd respondent to consider Ext.P4 representation in the light of Ext.P3 order after affording an opportunity of being heard to the petitioners as also 3rd and 4th respondents

S.SIRI JAGAN .JUDGE

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